



**The Australian Industry Group**

5 September 2014

**Productivity Commission Inquiry  
Child Care and Early Childhood Learning - Draft Report**

This submission was finalised on 5 September 2014

### **About Australian Industry Group**

The Australian Industry Group (Ai Group) is a peak industry association in Australia which along with its affiliates represents the interests of more than 60,000 businesses in an expanding range of sectors including: manufacturing; engineering; construction; automotive; food; transport; information technology; telecommunications; call centres; labour hire; printing; defence; mining equipment and supplies; airlines; and other industries. The businesses which we represent employ more than 1 million people. Ai Group members operate small, medium and large businesses across a range of industries.

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**RESPONSE TO INQUIRY INTO CHILDCARE AND EARLY CHILDHOOD LEARNING  
PRODUCTIVITY COMMISSION DRAFT REPORT**

Australian Industry Group (Ai Group) welcomes the release of the Productivity Commission's *Childcare and Early Childhood Learning - Draft Report*. It provides a thorough analysis of relevant issues and puts forward many important draft recommendations.

As set out in our February 2014 submission to the inquiry, Ai Group believes that childcare policy should:

- Maximize participation in the workforce, including participation by mothers of pre-school aged children and other primary carers; and
- Provide the best possible early learning foundation for all children, in order to improve future education, training and skill levels.

The comments below are made with the above objectives in mind.

**Improving accessibility and affordability**

**Government assistance to families using approved nannies**

Ai Group welcomes the draft recommendation to extend childcare assistance to families choosing to use approved and registered nannies as a form of care for children (p.375). Ai Group advocated this option in its February 2014 submission as a means through which parents, who desired to work, could better afford childcare particularly for families with more than child. The inclusion of approved and registered nannies, in Ai Group's view, would reduce barriers to maternal workforce participation caused by current constraints of childcare costs and accessibility.

It is appropriate to link eligibility to assistance, to the use of nannies who have a relevant Certificate III qualification under the Australian Quality Framework. It is also appropriate to require nannies to comply with the same staff ratios present for family day care. Such measures, combined with random and targeted inspections, should reinforce the quality of care.

**Non- standard employment and/or irregular hours**

The opportunity for parents and carers to work their desired hours is often made possible by the needs of their employer. As detailed in our earlier submission, many employers who operate outside standard business hours face difficulties in recruiting

and rostering employees who have no or limited access to either formal or informal child care.

Such operating requirements may include, rotating shift work, weekend work, short-term contracts, unplanned work, or start and finish times beyond the operating hours of many childcare centres. In order to facilitate increased opportunities for employers to provide work to employees during non-standard hours or for non-standard employment, it is important that employees have access to childcare that better meets their working commitments.

Accordingly, Ai Group is supportive of the Commission's recommendations to:

- Abolish operational requirements that specify minimum or maximum operating weeks or hours for services approved to receive child-based subsidies (p.367);
- Encourage service providers to use the places of children who are on planned extended absences, available to other children on a short-term basis (p.369); and
- Remove caps on the number of occasional care places (p.370).

The restrictions currently in place are barriers to employees in non-standard work or working non-standard hours accessing childcare.

### **Improving accessibility to Outside Schools Hours Care (OSHC)**

Ai Group supports the recommendation for state and territory governments to direct all schools to take responsibility for organising the provision of outside school hours care (OSHC) for their students where demand is sufficient for a service to be viable (p. 337). The facilities of schools, combined with the minimal disruption of having children cared for in the school environment, necessitate that schools expand their OSHC services.

Limited accessibility to OSHC creates pressure on the resources of many employers whose employees are required to work around school hours because of lack of OSHC. Indeed many employees, as noted in the Draft Report, have explained to the Commission the frustrations and difficulties of working around school hours without access to OSHC.

### **Measures to help employers provide employees with flexible work**

Removing existing barriers to flexible work arrangements would increase workforce participation.

Under the National Employment Standards in the *Fair Work Act 2009 (Cth)* employers are required to consider requests for flexible work from eligible employees, including those who are parents or care for a child who is of school age or younger. In addition, the General Protections in the *Fair Work Act* provide statutory protection to employees in respect of workplace rights and protection against discrimination. Moreover federal and state anti-discrimination laws apply to prevent discrimination on the basis of sex or due to caring responsibilities. In short, Australia has a strong regulatory system to protect the rights of employees with caring responsibilities.

However, despite the strong regulatory framework in place, some barriers still remain as impediments to employers and employees agreeing on flexible work arrangements.

In response to Information Request 6.1 (p.262) the impediments to employers providing flexible work arrangements to employees include:

- A lack of clarity about how the Better Off Overall Test operates for Individual Flexibility Arrangements (IFAs) made under flexibility terms in awards and enterprise agreements; in particular, whether non-monetary benefits to employees can be taken into account when determining whether an employee is better off. Another problem is the capacity for collective agreements to block the provisions of meaningful flexibility to individual employees through IFAs. The *Fair Work (Amendment) Bill 2014* which is before Parliament addresses these problems.
- There are still a few modern awards which do not provide for part-time employment, notwithstanding the right to request part-time work for eligible employees in the National Employment Standards. Other awards have unduly inflexible part-time and/or casual provisions. Ai Group is seeking changes in these areas during the Fair Work Commission's current Four Yearly Review of Awards.

The unions and various other parties have proposed to give the Fair Work Commission arbitration powers under the 'right to request' provisions in the National Employment Standards. Ai Group strongly opposes such a change. The 'right to request' provisions were designed to facilitate discussions and agreement between employers and employees about flexible work arrangements, rather than imposing arrangements on employers.

Ai Group is supportive of measures devoted to educating employers and employees about rights, responsibilities and best practice approaches. Focusing on these important areas would bring employers along in a positive manner, whereas heavy-handed

regulatory responses are likely to generate negative views amongst employers and would be counter-productive.

The best flexible work arrangements for working parents are not ones mandated by regulation or through prescriptive processes, but come from a genuine desire from business and employees to work co-operatively, understand the other's interests, and to keep the employment relationship going. Flexible work arrangements for working parents should be, and often are, a positive experience for both sides.

Across Ai Group's membership we have seen more and more innovative and different ways of working such as working from home, compressed working weeks, flexible hours, shorter working days.

In line with the Productivity Commission's Draft Recommendation 6.1 (p.262), Ai Group is committed to promoting the merits of flexible work to business and increasing awareness amongst employers of flexible work options.

## **Funding options**

### **Combining and simplifying payments**

Ai Group agrees with the Commission's draft recommendations to combine and simplify all relevant childcare payments into a single income stream (recommendation 12.2) and to make payments directly to childcare providers (recommendation 12.4). Ai Group supports the simplification of Government processes across all Government activities, in the interests of reducing transaction and administration costs for Government, households and businesses. Any administrative savings achieved by the streamlining of childcare-related payments should be put back into the provision of childcare services.

Ai Group supports the retention of an activity test (recommendation 12.4) for the payment of all childcare benefits. This is necessary to promote increased participation by parents in the workforce and/or in formal study programs.

### **Means testing**

Ai Group has considered the Commission's analysis of the benefits of and options for means testing, but we maintain the position adopted in our February 2014 submission. That is, given the very high levels of current out of pocket costs relative to incomes, even after subsidies and the high numbers of potential workers citing childcare costs as a barrier to increased workforce participation, Ai Group supports the retention of the childcare rebate that is currently available to all parents with work or study commitments.

Ai Group does not believe that the childcare rebate should be means tested for equity reasons or needs to be means tested for budgetary reasons, because the current maximum cap on individual payments (\$7,500 per child per year) places an effective ceiling on the total potential cost of the rebate program. The maximum rebate cap also means that higher earning parents who typically use more expensive childcare do not tend to be reimbursed as much of their total childcare costs as do those on lower incomes.

Ai Group is concerned that any move to introduce means testing for this rebate would, in practice, introduce yet another effective tax distortion for working parents, and create a disincentive for parents to work or to increase their work hours once they get near to the means testing thresholds, at whatever level they are set.

### **Fringe Benefits Tax Exemptions**

As referred to in our February 2014 submission, the current fringe benefits tax exemption for on-site employer provided childcare has been in place since 1986 but the take up rate has been extremely low given the very tight eligibility criteria. Ai Group maintains that consideration should be given to extending the exemption to cover situations where several companies are located in the same building or estate, and such companies decide to jointly establish a centre to provide childcare for the employees of the participating companies.

The extension of the FBT exemption in this way would provide additional incentives to employers to assist employees to address childcare needs. It would also encourage employers located in industrial or business estates to provide childcare services in areas where such services are not readily available. The direct involvement of employers in the provision of childcare is an important and visible way to promote positive attitudes and solutions to accommodating the needs of working parents.

In respect of Draft Recommendation 12.1 (p.513), Ai Group does not support the repeal of s.47(2) of the *Fringe Benefit Tax Assessment Act 1986 (Cth)* which would adversely impact on those leading employers who have set up on on-site childcare centres.

Ai Group supports the retention of s.47(8) which provides an FBT exemption in certain circumstances for an employer to purchase priority access childcare places for children of employees.

**The Government’s proposed paid parental leave scheme**

Ai Group concurs with the Draft Finding 12.1 (p. 562) that there is merit in diverting any additional government funding that may be available from the Government’s proposed “gold-plated” Paid Parental Leave scheme, to childcare measures. The Government’s scheme is unlikely to significantly increase maternal workforce participation (that is currently below the OECD average), nor does it invest in quality early childhood education. Investment in childcare creates a broader range of benefits to the economy, families, communities and the welfare of children.

Ai Group considers the current arrangement for paid parental leave to be adequate for Australia’s current economic circumstances.

Consultations with Ai Group members consistently indicate that childcare provision, rather than paid parental leave, is the key impediment to enabling parents to return to work. This suggests that Government resources should be focused on childcare rather than on improved paid parental leave.